



McGREGOR W. SCOTT

*United States Attorney
Eastern District of California*

NEWS RELEASE

Sacramento
501 I Street, Suite 10-100
Sacramento, CA 95814
Tel 916/554-2700
TTY 916/554-2877

Fresno
2500 Tulare Street, Suite 4401
Fresno, CA 93721
Tel 559/497-4000
TTY 559/497-4500

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Contact: Lauren Horwood
916/554-2706

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LOCAL COUPLE SENTENCED TO FIVE YEARS IN FEDERAL PRISON FOR GROWING AND SELLING MARIJUANA

*Doctor-Lawyer Couple Runs Million-Dollar Business Selling Medical Marijuana Recommendation
Statements*

SACRAMENTO—United States Attorney McGregor W. Scott announced that Dr. MARION P. FRY, 50, a medical doctor, and DALE C. SCHAFER, 52, a lawyer, husband and wife, of Cool, California, were each sentenced today by United States District Judge Frank C. Damrell, Jr. to 60 months in federal prison. On August 16, 2007, a federal jury found the defendants guilty of conspiracy to sell marijuana, to grow over 100 marijuana plants, and to sell over 100 marijuana plants.

This case was the product of long-term investigations by the Drug Enforcement Administration (DEA) and the El Dorado County Sheriff's Office.

According to Assistant United States Attorney Anne Pings, who prosecuted the case, Judge Damrell, in sentencing the defendant, stated that he stated he took "no pleasure in imposing sentence," remarking on the congressionally mandated five-year sentence. The court observed that with their "passion for the drug ... their judgment got clouded" and their "self-aggrandizement took over."

The evidence presented at trial showed that from 1999 until the end of 2001, when the DEA executed a judicially authorized search warrant at their residential property, the defendants sold dried marijuana and marijuana plants from their office in Cool to persons acquiring, for a fee, recommendations from Dr. FRY for use of marijuana. These recommendations enabled the holder to avoid arrest under California's medicinal marijuana law, Proposition 215. The proposition provides a legal defense to state (not federal) criminal charges when marijuana is possessed for treatment of a serious medical condition. Evidence introduced at trial, however, showed that FRY sold these recommendation statements to people for diagnoses such as asthma, alcoholism, and sore elbow. On cross-examination, SCHAFER admitted that by 2001, the couple had made between \$750,000 to \$1,000,000 selling these recommendation statements to over 5,000 customers who had come to their office in Cool. It was to these customers that the defendants sold dried marijuana in plastic bags and as marijuana plants. Some of the customers testified at trial that the hand-to-hand sales took place in the fire station parking lot near their office. Other customers signed up at the office for home delivery of dried marijuana or plants. The couple also employed a delivery man who drove to customers' homes and delivered bags of marijuana and marijuana plants.

"The federal ban on growing and selling marijuana is without equivocation. The defendants were fully aware of this federal prohibition, yet proceeded to openly sell marijuana from their business in El Dorado County. Today's sentencing—mandated by Congress—is the consequence of their decision to flagrantly violate federal law" stated United States Attorney McGregor Scott.

The DEA investigation began in 2001 when United Parcel Service (UPS) intercepted eight parcels of marijuana that the defendants were shipping to customers. It was revealed at trial that payment for marijuana deliveries would be made by check, payable to the "Law Office of Dale C. Schafer" which were deposited into the law office bank account.

At trial, several witnesses testified that after buying a recommendation paper from FRY at the defendants' office in Cool, or other locations where the defendants held "workshops" or "clinics," they then purchased marijuana directly from the defendants, their delivery man, or SCHAFER's adult son. One witness testified that after buying a recommendation paper, SCHAFER's adult daughter, who posed as a "paralegal" at the office, telephoned her and informed her that they were selling marijuana and asked if she wanted to place an order. SCHAFER's adult son later delivered the marijuana to the witness's home. The son told the witness to make the check payable to his father's law office so that if there were any questions later, they could claim that the check was for legal services.

During the trial, the prosecution played an audiotape of FRY offering to sell four plants and some indoor growing lights to an undercover officer for \$400. In the tape she is also heard encouraging the undercover officer to buy marijuana plants and lights from her instead of going to another supplier, saying that the other establishment was "staked out by narcs." The government's evidence also included a recording made by an undercover officer who called the defendants' office and was told that he could buy small marijuana plants for \$5 a piece.

When they executed the search warrant at the defendants' house, the DEA agents seized over 30 plants and large quantities of dried and harvested marijuana. They also located an underground bunker outfitted with lights and fans to grow marijuana, a multi-car garage converted into an indoor hydroponic growing facility, a customized indoor drying room, and plants growing in a greenhouse and an outdoor garden area. The trial exhibits included photos of SCHAFER and the couple's minor children harvesting marijuana plants from this garden area and "trimming" marijuana bud inside the residence.

The court released the defendants on bail pending their anticipated appeal to the Ninth Circuit Court of Appeals. As a condition of her release, the court prohibited Dr. FRY from directly or indirectly recommending medicinal marijuana.

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